IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICGTION

INCOME TAX REFERENCE NO. 312 of 1988

Gammon India Ltd., Bombay ... Applicant.

vs.

The Commissioner of Income Tax ..... Respondent

Mr. S. S. Shetty with MR. P. C. Tripathi for Applicant.
Mr. Ashok Kotangale, Sr. Counsel i/b. K.C. Sidhwa for Respondent.

CORAM: V**. C. DAGA**
AND
A. S. AGUIAR JJ.
Date:14th July, 2005.

P. C.:

1. By this reference under section 256 (1) of the Income Tax Act , 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this court:

> "Whether on the facts and circumstances of the case, the Tribunal was justified in law in holding that the subsidy received by the applicant on the manufacture of fertilizers was 'income' in its hands and as such chargeable to tax?"

2. Heard learned counsel for the applicant. He fairly states that the question quoted herein above has already been answered by the Supreme Court in the matter of **Sahney Steel & Press Works Ltd. Vs. Commissioner of Income Tax**, [1997] 228 ITR 253 – page 262. In that view of the matter the subsidy received by the applicant and used in the manufacture of fertilizer is held as trade receipt. In this view of the finding the question referred in this reference is answered in the affirmative, against the assessee and in favour of the revenue. Reference stands disposed of with no order as to costs.

(V. C. DAGA J.)

(A. S. AGUIAR J.)